

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOEL J. SABBRESE and PHILIP H. HAUSENBERGER, Plaintiffs, v. BROWNSVILLE BUS LINES, INC., Defendant.	: : : : : : : : : : :	CIVIL ACTION No. 2:13-cv-00086 Judge Conti Electronic Filing
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**PLAINTIFFS' MOTION FOR LEAVE TO JOIN
ADDITIONAL DEFENDANT AND TO AMEND COMPLAINT**

Plaintiffs, Joel J. Sabbrese and Philip H. Hausenberger, by and through their counsel, Kunkel Law Firm, file the following Plaintiffs' Motion For Leave to Join Additional Defendant and to Amend Complaint. In support hereof, Plaintiffs state as follows:

1. This is a collective action filed by the Plaintiffs on January 15, 2013 under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* in which the Plaintiffs allege on behalf of themselves and other similarly situated current and former employees who were employed by the Defendant Brownsville Bus Lines, Inc. that they are entitled to unpaid wages for overtime work for which they did not receive any overtime premium pay as well as liquidated damages.

2. Pursuant to Fed. R. Civ. P. 15(a), 19 and/or 20, Plaintiffs seek to amend their Complaint to add White Line Taxi, Inc. as an additional Defendant and to amend their Complaint to allege that Defendant Brownsville Bus Lines, Inc. and White Line Taxi, Inc. are joint employers for purposes of the FLSA.

3. In support of their Motion to join White Line Taxi, Inc. as an additional Defendant, Plaintiffs note that Defendant Brownville Bus Lines, Inc. asserts in its Answer to Plaintiffs' Complaint that Plaintiffs were employed by White Line Taxi, Inc. (Defendant's Answer to Complaint and Additional Defenses ¶¶'s 1, 5-6)[Doc. No. 14]

4. To the best of Plaintiffs' knowledge, information and belief, White Line Taxi, Inc. is located within this Court's judicial district and is subject to service of process; therefore, joinder of White Line Taxi, Inc. will not deprive this Court of jurisdiction over the subject matter of this action, and thus, joinder of White Line Taxi, Inc. is proper under either Fed. R. Civ. P. 19(a) or 20(a).

5. Rule 21 of the Federal Rules of Civil Procedure provides, in relevant part, that parties may be added by order of the court on motion of any party at any stage of the action or on such terms as are just.

6. Rule 19(a) of the Federal Rules of Civil Procedure provides, in relevant part, that a person who is subject to service of process and whose joinder will not deprive the Court of jurisdiction over the subject matter of the action shall be joined as a party to the action if, in the person's absence, complete relief cannot be accorded among those already parties.

7. Rule 20(a) of the Federal Rules of Civil Procedure governs permissive joinder of parties and provides, in relevant part, that persons may be joined in one action as defendants if there is asserted against them any right to relief in respect of, or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action.

8. Federal case law and the Department of Labor ("DOL") regulations specifically recognize the liability of joint employers under the FLSA. *In re: Enterprise Rent-A-Car Wage &*

Hour Employment Prac. Litig., 683 F.3d 462 (3d Cir. 2012); *Zheng v. Liberty Apparel Co.*, 355 F.3d 61, (2d Cir. 2003); *Bonnette v. Cal. Health & Welfare Agency*, 704 F.2d 1465 (9th Cir. 1983); 29 C.F.R. § 791.2(a)-(b).

9. As set forth in the proposed Amended Complaint, the Plaintiffs' allegations regarding the alleged violation of the FLSA against White Line Taxi Inc. and Brownsville Bus Lines arise from the same common nucleus of operative facts. Accordingly, this Court should permit Plaintiffs to add White Line Taxi, Inc. as an additional defendant given Defendant Brownsville Bus Lines, Inc.'s admissions that Plaintiffs were employed by White Line Taxi, Inc. and the allegations set forth in the proposed First Amended Complaint.

10. A copy of Plaintiffs' Proposed First Amended Complaint is attached hereto as Exhibit 1.

11. A proposed Order of Court is attached.

WHEREFORE, Plaintiffs respectfully pray that this Court grant their Motion for Leave to Join an Additional Defendant and to Amend Complaint.

Respectfully submitted,

Date:
June 10, 2013

/s/Gregory T. Kunkel
Gregory T. Kunkel
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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiffs' Motion For Leave to Join Additional Defendant and To Amend Complaint was served this 10th day of June, 2013, by using the CM/ECF system, which will send notification of such filing to the following:

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/s/ Gregory T. Kunkel
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